
Report to
The Vermont Legislature

IMPLEMENTATION OF PRESUMPTIVE PAROLE REPORT

In Accordance with
Act 148 of 2020, Section 20

Submitted to: Senate Committee on Judiciary and House Committee on Corrections and Institutions

Submitted by: Dean George, Chair, Vermont Parole Board

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Report Date: January 14, 2022



Statutory Language

Sec. 20 of Act 148 of 2020, An act relating to justice reinvestment, requires the Chair of the Vermont Parole Board to provide an analysis of the implementation of presumptive parole.

Sec. 20. PAROLE REPORT; JUDICIARY; PAROLE BOARD

On or before January 15, 2022, the Chair of the Vermont Parole Board shall report to the Senate Committee on Judiciary and the House Committee on Corrections and Institutions on the implementation of presumptive parole as established by 28 V.S.A. § 501a and 502a. The report shall include an analysis of the current administrative burden of presumptive parole and the anticipated administrative burden of expanding presumptive parole eligibility to offenders who have committed a listed crime as defined in 13 V.S.A. § 5201.

Introduction

In its 2020 session, the General Assembly enacted Act 148 establishing a system of presumptive parole with specific eligibility criteria. The first rollout was for inmates who are not serving a sentence for committing a crime specified in 13 V.S.A. § 5301 (non-listed). On January 1, 2023, eligibility will expand to include inmates who are serving a sentence for committing a crime specified in 13 V.S.A. § 5301 (listed), but not for a crime specified in 33 V.S.A § 5204(a) (Big 12).

Currently, presumptive parole is not causing any additional administrative burden on the Parole Board. The COVID-19 pandemic has impacted the operations of the criminal justice system in Vermont and as a result the sentenced incarcerated population has fallen significantly. This has affected and will affect the number of individuals who will be referred to the Parole Board for presumptive parole or come before the Parole Board for an initial eligibility hearing.

This report will outline an analysis of the 2021 presumptive parole and initial eligibility hearing statistics to aid in forecasting administrative burden of expanding presumptive parole eligibility.

Presumptive Parole Data Analysis Year 1

A total of 12 cases were referred to the Parole Board for presumptive parole consideration in 2021¹. Of those, 8 were approved and 4 were scheduled for a hearing. Of the 4 cases where a hearing was scheduled, 3 were paroled, and one was denied for reasons unrelated to victim concerns.

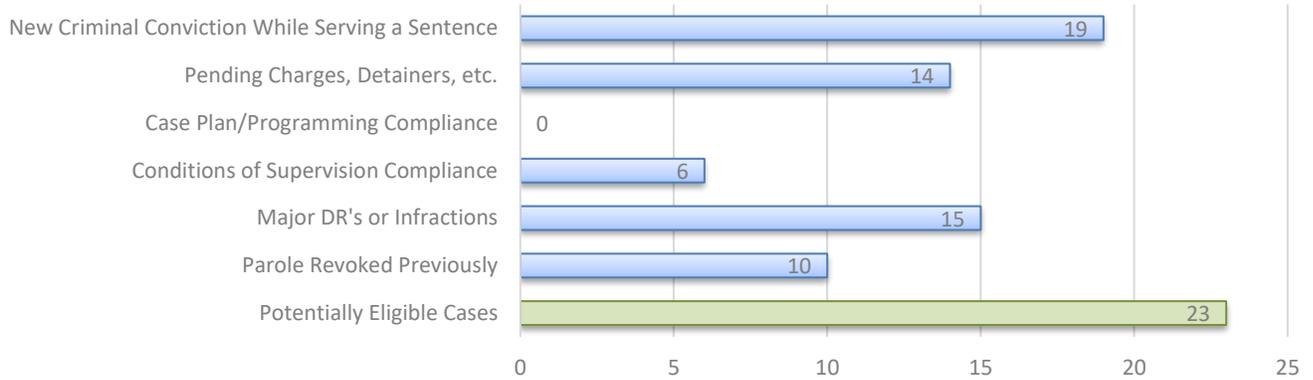
Director Ainsworth reviewed all parole summary reports that were submitted for initial eligibility hearings for individuals serving a sentence for a non-listed crime. Based on the information within the parole summary report, Director Ainsworth was able to breakdown the basis for ineligibility. In doing so, it was found that out of the 87 parole summary reports that were submitted for individuals serving a sentence for a non-listed crime, 23 cases appeared to have been eligible for presumptive parole². This analysis was completed to aid in determining the administrative burden that the Parole

¹ This data differs from the Vermont Justice Reinvestment II Working Group Report – January 2022 as there was an error found in the data reported to the Council of State Government.

² As DOC determines eligibility, the Parole Board cannot determine if there were factors not clearly stated in the parole summary that would make the individual ineligible for presumptive parole.

Board may endure. Below is a chart outlining the statutory reason for why a person convicted of a non-listed crime may not have been referred for presumptive parole.

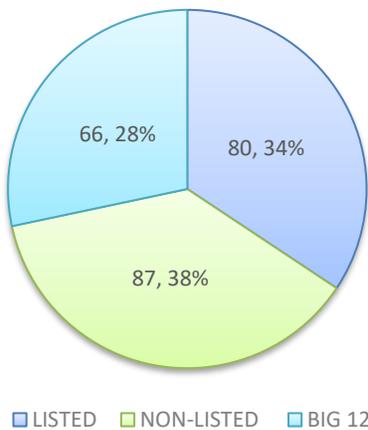
Basis for Ineligibility - Non-Listed Crimes



Initial Eligibility Hearing Data Analysis

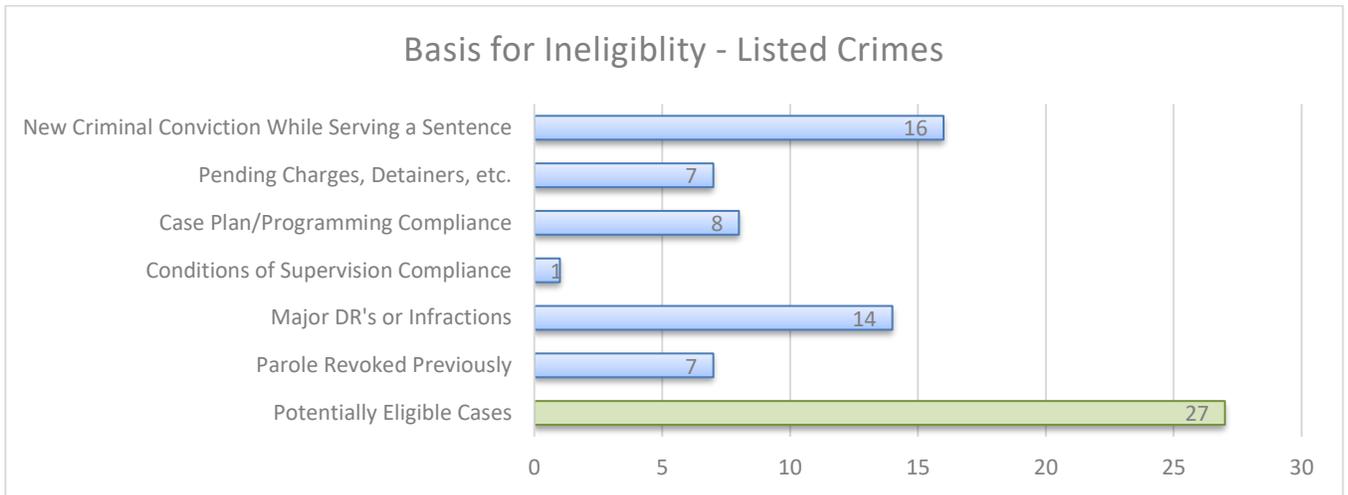
An analysis of the 2021 initial eligibility hearing data was conducted to aid in predicting future administrative Parole Board responsibility when the eligibility expands to include inmates who are serving a sentence for committing a crime specified in 13 V.S.A. § 5301 (listed), but not for a crime specified in 33 V.S.A § 5204(a) (Big 12).

In 2021, 233 individuals came before the Parole Board for an initial eligibility hearing. Of those 233 individuals, 87 were serving a sentence for a non-listed crime, 80 were serving a sentence for a listed crime, and 66 were serving a sentence for a Big 12 crime.



Director Ainsworth reviewed all parole summary reports that were submitted for initial eligibility hearings for individuals serving a sentence for a listed crime. Based on the information within the parole summary report, Director Ainsworth was able to breakdown the basis for ineligibility. In doing so, it was found that out of the 80 parole summary reports for listed offenders, 27 cases could

potentially be referred for presumptive parole³. Below is a chart outlining the statutory reason why a person convicted of a listed crime may not be referred by the Dept of Corrections to the Parole Board for presumptive parole.



Conclusion

After analyzing the initial eligibility hearing data, it was found that approximately 52 individuals serving a sentence for a non-listed or listed crime would be eligible for presumptive parole under the legislation that becomes effective on January 1, 2023. Thus 22% of all initial eligibility hearings would be administrative presumptive parole reviews by the Parole Board. The result is that presumptive parole will reduce the number of parole eligibility hearings conducted by the Parole Board and subsequently the administrative responsibility of initial eligibility hearings. It would also result in a time savings for the Parole Board and DOC staff as the average initial eligibility hearing takes 15-20 minutes.

The unknown factor is the effect that presumptive parole will have on the number of alleged violations of parole conditions, that ultimately will be brought back before the Parole Board, in the form of Parole Violations, Probable Cause, and Bail release hearings. The right to “due process” at Parole violation hearings requires significantly more time and preparation for the Parole Board, the Department of Corrections, and the Prisoners’ Rights Office (who generally represent the parolee).

³As DOC determines eligibility, the Parole Board cannot determine if there were factors not clearly stated in the parole summary that would make the individual ineligible for presumptive parole.